



# University of Hawai'i at Mānoa

## Environmental Center

A Unit of Water Resources Research Center

2550 Campus Road • Crawford 317 • Honolulu, Hawai'i 96822

Telephone: (808) 956-7361 • Facsimile: (808) 956-3980

RL:01453

**HB1349**

## **RELATING TO REGULATORY PROCESSES**

### **House Committee on Economic Development and Business Concerns**

**Public Hearing - February 11, 1999**

**8:30 a.m., Room 325, State Capitol**

by

John T. Harrison, Environmental Center

HB1349 amends Section 91-13.5, HRS, to specify criteria for completeness of permit applications and for additional circumstances under which time limits for permit approval may be extended, and it provides for an expedited appeals process for the timely resolution of disputes.

Our statement on this measure does not constitute an institutional position of the University of Hawaii.

The underlying intent of government regulatory oversight is frequently forgotten in the rush to assign blame for economic non-performance. It's worth keeping in mind that regulatory permits are intended to protect public interests and public trust resources, such as shorelines, native forests, open space, coastal water quality, and a wealth of natural capital that is routinely given little or no value in classical economic analyses. Regulatory permits are designed to protect the public welfare, public health and safety. And permits are tools of implementation of thoughtful, farsighted planning to maximize public benefit.

It's also worth noting the full spectrum of obstacles to efficient permit approval:

1. Duplication of regulation.
2. Ambiguity of regulation, both legal and bureaucratic.
3. Excessive government zeal in regulatory control.
4. Bureaucratic inefficiency, or insufficiency, of staff or resources.
5. Applicant non-performance, or improper application.
6. Applicant malfeasance, through provision of inaccurate or misleading information.
7. Applicant metamorphosis, or "midcourse corrections" in design or scope.

Undoubtedly, it is possible to achieve a more efficient system of regulatory approval. However, will it protect natural resources, prevent unsightly sprawl, and serve the public, as well as the private interests?

HB 1349 corrects serious errors committed in the headlong rush to regulatory reform, and we would draw your attention to the ultimate gains in efficiency and reductions in expense to be realized by making these corrections.

We note one glaring error, which reflects a prevalent misconception of the regulatory process. On Page 6, Section 4 considers the circumstance when application for a permit entails preparation of an environmental impact assessment pursuant to provisions of Chapter 343, HRS. An EIS is not a permit. It is a public disclosure process, or a public planning process which precedes discretionary permitting. Although a number of permits require submission of an accepted EIS or a Finding of No Significant Impact as part of a completed application, there are no permits for which an application is filed, after which the provisions of HRS 343 commence. This sequence is intentional. The purpose of the 343 process is to disclose project effects and plans at the earliest practicable time, in order to allow for implementation of appropriate mitigation in order to avoid or minimize environmental impacts.

We suggest, therefore, that Section 4, page 6, should be deleted. With this substantive correction, we strongly support the intent of HB 1349.